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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

MALDIVES

[19 March 1996]

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Introduction

1. This report is submitted in accordance with the Convention on the Rights of the Child (1989) to which Maldives is a party, and it contains a brief overview of the activities carried out by way of implementing the said Convention in Maldives.

2. Maldives has made considerable progress in enhancing the situation of children (and women), particularly in child survival and basic education. All attempts are being made to improve the condition and status of the girl child, to reduce maternal mortality, to ensure safe motherhood, and to provide quality and equity of early childhood development and primary education, nutrition and access of safe water and sanitation to maximum levels achievable within the constraints of the physical structure, infrastructure and available resources of Maldives. There exists firm political will to foster such improvement and structural frameworks within which to do so.

I. GENERAL MEASURES OF IMPLEMENTATION

3. Maldives is an Islamic nation of long-standing and, in keeping with the Islamic tradition of ensuring sound upbringing of children, the welfare of children has always been a priority in the country. It was among the very first countries to ratify the historic Convention on the Rights of the Child. The practical activities that were subsequently undertaken in the country were a manifestation of Maldives commitment to the Convention, and to children.

4. The Government of Maldives under the leadership of His Excellency President Maumoon Abdul Gayoom is committed to fulfilling the needs of children, to safeguarding their basic human rights; to ensuring their right to enjoy the benefits of social and economic progress of the society and to guaranteeing a safe environment for them as emphasized by the Convention on the Rights of the Child, the World Declaration on the Survival, Protection and Development of Children and the decisions of the South Asian Association for Regional Cooperation (SAARC) Summits (1986-1991).

5. The fact that almost 50 per cent of the Maldivian population is comprised of children under 16 years of age, calls for even greater attention to promoting the total well-being of children. It is to this end that the activities specified in the Convention are being implemented.

6. The first such activity was declaring 1991 as the Year of the Maldivian Child. One of the most significant events of the year was the National Conference on the Maldivian Child, held in Malé, the capital of Maldives, from 8 to 11 July 1991.

7. The Conference highlighted the situation of Maldivian children and formulated measures to achieve their well-being in the light of the recommendations and global strategies adopted by the World Summit for Children, held in 1990. It adopted the Declaration on the Survival, Protection and Development of the Maldivian Child and an inter-ministerial coordination committee prepared the National Programme of Action (NPA) for achieving the goals set.

8. In November 1991, The Law on the Protection of the Rights of the Child was passed (Law 9/91). This was the first major piece of legislation passed subsequent to ratification and, following the content of the Convention, represented a landmark by recognizing the rights of children and their freedom and dignity and aiming to create conditions in which they can develop their full potential and look forward to a full and satisfying adult life. The Law initially identifies guiding principles and objectives for the State, parents, and the community in respect of their responsibilities towards children in endeavouring to make children patriotic, religious and healthy with a good upbringing.

9. This Law is the main legal document on children's rights and is the framework on which the implementation of the Convention is based. It states that any person in contempt of this law can be jailed, banished, placed under house arrest or fined. The Ministries responsible for each section are, over time, developing practices and specific policies, which can then be enforced through the use of the sanctions identified.

10. As a follow-up, the National Council for the Protection of the Rights of the Child was established, its mandate being to observe the role of the State, parents and the community and to monitor the goals set in the NPA. The establishment of a central database to monitor those goals is currently under way with the collaboration of the respective parties.

11. The National Council for the Protection of the Rights of the Child is headed by the Minister of Home Affairs, as the chair. The National Council is composed of 15 members from 12 different bodies, which include the Ministries of Health and Welfare, Education, Justice and Islamic Affairs, Youth Women's Affairs and Sport, Atolls Administration, Planning and Environment, Defence and National Security, Information and Culture, and Home Affairs. Also represented are the Attorney General's Office, and the Maldivian Parliament.

12. A special Unit for the Rights of the Child (URC) was established at the Ministry of Home Affairs on 1 November 1992. This was seen as a major outcome of the efforts made to improve the welfare of children. The unit deals with all issues related to children's rights, their publicity, promotion and implementation. A primary task of the Unit is to offer a counselling service to children (and parents) whose behaviour is problematic, either at home, at school or in the community; and to children who have been abused, abandoned or neglected.

13. The number of cases reported to the Unit is suggestive of the fact that children face many problems that warrant attention. Since the inception of the Unit in November 1992, a total of 997 cases have been referred to it as follows:

November/December	1992	57
	1993	205
	1994	285
	1995	350

14. An analysis of these cases suggests that the underlying causes of child-related problems are associated with social issues such as broken families and changing societal values that are challenging traditional values and causing a rift between generations.

15. To offer a unified national service to the country's children URC has commenced a programme of training for personnel in the atolls. To date, training programmes have been run in Fuah Mulah and Ari Atoll. There are a further four training workshops planned for 1996.

16. Training needs are high both amongst the URC counsellors, who, whilst highly committed and motivated, are young, unqualified and with little experience, and amongst the volunteer counsellors, in Malé and on the atolls.

17. URC has been financially assisted by UNICEF since its inception in 1992, and in 1995 Voluntary Service Overseas (UK) posted a volunteer as Child Rights Coordinator, primarily to train counsellors in Malé and throughout the country.

General constraints on development

18. An almost unique environmental constraint to universal and sustainable development in Maldives is the physical structure of the country. The people of Maldives inhabit 199 out of a total of over 1,190 coral islands, widely dispersed over a large area. The dispersed and fragmented geographic nature of the country is reflected in every aspect of life and exerts a dominant influence on the infrastructure (as infrastructure costs would need to be replicated over most of the 200 islands) and, consequently, on the ability and opportunity to develop, fully, equity of services for children throughout the country.

19. The capital island, Malé is populated by nearly one quarter of the total population of the country, which currently stands at about 245,000. The remaining population is sparsely distributed among the 199 inhabited islands. Economic concentration around Malé (and the tourist resorts) has led to internal migration and a flow of resources resulting in widening disparities within the country, despite an overall improvement of economic conditions. Decentralization, which is conducive to sustainable development is being pursued.

20. Environment degradation related to fresh water aquifer depletion, saline water intrusion in the fresh water aquifer, solid waste management and disposal, coral mining, land reclamation destroying reefs and coastal erosion, and global warming leading to rising sea levels (the latter, in fact, threatening the security of the whole nation) seriously impede development.

21. A further threat to the environment is the population expansion, Maldives having one of the highest population growth rates in the world. A growth rate of 3.5 per cent threatens to undermine the quality of life, particularly in the atolls. Population and ecological balance is hindered by depletion of vegetation, fuelwood, water supplies, coral and sand (for construction). Elements of population policy have been included since 1988 in the National Development Plan which brought about progress in population programmes in the

atolls. 1995, however saw the emergence of an extensive population policy, dealing with a whole range of issues connected with family welfare, under the management of the World Health Organization (WHO).

22. Because of the rapid population increase, the number of children to be served by the main services, i.e. health and education, multiply quickly, exerting pressure on existing facilities and leaving little time for forward planning.

23. Whilst transport facilities have improved recently (through the mechanization of dhonis, increased air transport and harbour deepening), transport between islands and atolls remains difficult.

"Public information"

24. The Convention on the Rights of the Child has been translated into the Maldivian language, Dhivehi. To date, one thousand copies have been distributed to the public by URC. A simplified version of the Convention has been included in a report published by URC, which also includes a descriptive, statistical and analytical report on the cases reported to URC.

25. Section 7 of the Law on the Protection of the Rights of the Child specifies that special programmes imparting information and advice relevant to children, should be telecast/broadcast through television and radio. This section also indicates that the programmes targeting children should not use undesirable language or scenes which might have a negative impact on the behaviour of the child. In this regard, Television Maldives and the Voice of Maldives broadcast special programmes for children. Some of the programmes are presented by children themselves. Special columns in the daily newspapers are allocated to children.

26. Furthermore, some of the programmes broadcast through television and radio are intended to inform the general public about the upbringing of children, reminding parents and making them more aware of their duties and responsibilities towards their children. In these programmes due reference is made to Islamic values and principles relating to the development of the child. URC also plays a continuing role in raising public awareness of child related issues, through the production of posters and leaflets on a regular basis.

II. DEFINITION OF THE CHILD

27. The Law on the Protection of the Rights of the Child (Law No. 9/91) defines any person below the age of 16 years as a child. The age of attainment of adulthood is, however, 21 years. Legal minimum ages established for specific purposes include:

Legal/medical counselling without parental consent, 16 years;

Education, whilst not compulsory, is encouraged up to the age of 16 years;

Sexual consent is forbidden outside of marriage;

There is an unwritten rule that marriage before the age of 15 should be prohibited and, under Law 9/91, section 21, parents are advised to discourage marriage before the age of 16. Early marriages continue to occur in Maldives, particularly in the outlying atolls;

Voluntary enlistment into the National Security Services can only be made by those over 16 years old;

Children under 16 years cannot give testimony in court;

Regarding criminal liability, Maldivian law regards a person over 15 years as criminally responsible. Children under 15 are not charged with offences, unless the offence is murder, use and trafficking of drugs, major theft and fornication or religious offences;

The Law on the Protection of the Rights of the Child (Law No. 9/91) prohibits any child who is below 16 years being employed, for gain, at a place where persons are employed for gain;

The Rules of Procedure of the Courts require that children below the age of 16 shall not be subjected to imprisonment or banishment;

Consumption of intoxicating substances and/or drugs is forbidden to all Muslim persons.

III. GENERAL PRINCIPLES

Non-discrimination (art. 2)

28. It is provided in the Maldivian Constitution that all persons are equal before the law and that equal rights are guaranteed to men and women.

29. Stereotyping of gender roles results in the girl child from infancy of parental expectations of roles associated with childbearing and child rearing. Simultaneously, the boy learns to assume a role of financial caretaker of the family based on the role model provided to him by his father and other male relatives.

30. The traditional, predominating role of women is that of wife and mother and a pervasive feature of Maldivian society, particularly in the outlying atolls is that women marry very early, remarry several times and bear a number of children, from a very young age until their mid-forties. This has serious implications for their health. This situation is, however on the decline, as can be seen in Malé, where women comprise around 50 per cent of the workforce, some of them occupying prestigious positions.

Best interests of the child (art. 3)

31. In making decisions regarding custody it is emphasized that all parties concerned should ensure that the best interests of the child are served.

32. Children under 7 years will, primarily, remain with their mother. If this is not deemed appropriate (if, for example, the mother is to remarry and

have other children), custody will be offered to the maternal grandmother, the paternal grandmother or the father, in descending order of priority. Children over the age of 7 years can choose in whose custody they wish to remain.

Right to life, survival and development (art. 6)

33. Law 9/91 (chap. 1, No. 2) states that "provision should be made to ensure maternal and child health from the time of conception to delivery, through health education of parents, and the treatment of illnesses".

34. Under Maldivian law, the definition of a child commences at the time of conception. It is, therefore an offence to abort the child at any stage of a pregnancy. Pregnancies can only be terminated if there are serious medical reasons which threaten the health of the mother.

35. Section 4 of Law 9/91 requires the Government to identify reasons for child mortality, and aims to reduce it by raising public awareness. This Law reinforced action taken in 1990, when the World Summit for Children was signed by the President. This approved a Plan of Action whose goals included:

Reduction of the infant mortality rate, by 50 per 1,000 or one third, whichever is less;

Reduction of the under-5 mortality rate by 70 per 1,000 or one third, whichever is less.

The present infant mortality rate stands at 30 per 1,000 live births (Statistical Year Book).

Respect for the views of the child (art. 12)

36. In custody cases involving children, the views of the child are given considerable weight by the courts. Upon reaching the age of 7, the child has the right to opt in whose custody he would remain.

IV. CIVIL RIGHTS AND FREEDOMS

Name and nationality (art. 7)

37. Section 2 of the Law on Vital Registration at birth (Law 7/92), requires that an application be made to register the birth of a child within seven days of the date of the birth. Under the said Law it is the responsibility of the father and, in the absence of the father, of the mother to file such application. Failure to do so would result in a fine.

38. The citizenship laws of Maldives have been amended to enable a child whose father is a foreigner and whose mother is Maldivian to apply for Maldivian citizenship.

Preservation of identity (art. 8)

39. The Law on Registration of Births and Deaths further requires that an application be made for a certificate of registration of the child before the child reaches the age of 16 years. Children can only attend school if they are registered, so compliance is high.

Freedom of expression (art. 13)

40. The Constitution of Maldives guarantees freedom of expression to all its citizens. Since children fall within the definition of citizens, they too enjoy the same rights in respect of freedom of expression. This would include freedom to seek, receive and impart information and ideas of all kinds in writing or in print or through any other media of the child's choice.

Access to appropriate information (art. 17)

41. The Law on the Protection of the Rights of the Child, No. 9/91 (chap. 1, No. 7) states that special programmes consisting of information necessary for children should be broadcast and that the programmes should not consist of materials which are injurious to the child's well-being.

42. To enable children to have access to information and material from a diversity of national sources, a section of the National Library specially caters for children's books, magazines and materials. National radio and television (introduced in 1978) disseminates information and materials of social and cultural benefit to the child by way of children's programmes. Law No. 9/91 expressly prohibits dissemination of any information that is detrimental to the dignity of the child.

Freedom of thought, conscience and religion (art. 14)

43. As Maldives is a 100 per cent Muslim country, the Constitution of Maldives is silent about the freedom of religion. Regulations do, however, permit non-Muslims to practise their religion in privacy. Thought and conscience are inextricably bound by and linked in Maldives with the Muslim religion, which all Maldivian citizens must follows and practise.

Freedom of association and peaceful assembly (art. 15)

44. Freedom to assemble without arms is a fundamental right entrenched in the Maldivian Constitution. Children enjoy the same rights that any other Maldivian citizen enjoys.

Protection of privacy (art. 16)

45. The Constitution provides legislation to guarantee the privacy of individuals, including that of children.

The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37)

46. The Law on the Protection of the Rights of the Child (Law No. 9/91) prohibits imposing cruel and degrading punishment on children. New legislation was enacted in 1991 which considers those under the age of 16 as children and provides for special consideration in the prosecution and punishment of juvenile offenders.

47. Section 18 of Law 9/91 prohibits the beating of children, or imposing severe punishment which might harm the child mentally or physically, by

parents. It is not an accepted form of child punishment. Section 10 of Law 9/91 aims to ensure that punishment in school will not affect the child physically or psychologically.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

48. Within Maldivian society, it is common to find a very high rate of marriage, divorce and remarriage. Most women are married by 18 years of age and remarried four to six times by the time they are 50. One consequence of these "multiple" marriages is that some children are likely to have one or more step-parents (in addition to their natural parents), half-siblings and, consequently, large and complex kinship networks. One type of extended family which exists is "polynuclear", which clearly has advantages in terms of the greater variety of relations with whom the child can identify and form relationships, and greater opportunities for alternative care arrangements.

49. The extended family is, traditionally, the norm, a newly married couple taking up residence with the family of one of the partners. Consequently, households are quite large (particularly on Malé owing to the limitations on living space) and may have a number of different generations residing together.

Parental guidance (art. 5)/Parental responsibilities (art. 18)

50. Sections 13 to 15 of the Law on the Protection of the Child deals with parental responsibilities, rights and duties. These sections cover the parents' responsibilities for the upbringing and development of the child, including their duty to provide shelter, food, clothing and basic health care for their child and the obligation to give them basic education.

51. Parental responsibilities towards children are, inevitably, affected by the high rate of divorce. In the traditional society, within the extended family, divorce meant no major disadvantage to the child or the parents. Children were mostly taken care of by another member of the family. Basic needs were met rather modestly in the subsistence economy, so the financial burden was not felt. Today, however, (particularly in Malé) some children and women in divorced families are not cushioned by extended families. These children are felt to be children in especially difficult circumstances in the context of Maldives. The number is increasing, particularly urban adolescent children without adequate space to live, children from poor families, children of broken families, school drop-outs and those without adequate parental care, all particularly vulnerable to turning to crime. There is growing public concern that a law and order problem is emerging in Malé, with fears of youths spending time on the streets, forming gangs and getting involved in substance abuse.

52. To ensure that the child is afforded legal protection from matrimonial disharmony and separation, Law 9/91 (chap. 2, No. 19) states: "if parents have to separate this should not affect the child's education, conduct or health".

Separation from parents (art. 9)

53. The extended family supports children who need to be separated from their parents. There is a residential institution, exclusively for boys. Further services and facilities are planned to be developed.

54. Children may face separation from one or both parents because of the high incidence of divorce; and children from some atolls leaving their own families to "lodge" with friends or relatives elsewhere for the duration of their studies.

Family reunification (art. 10)

55. Maldives has not experienced situations such as armed conflict, civil wars or social unrest, so there is no legislation or policies on this issue.

Recovery of maintenance for the child (art. 27)

56. Law 9/91 (chap. 2, No. 20) states that if parents are divorced or separated, support should be provided for the children in accordance with court orders.

Children deprived of a family environment (art. 20)

57. Section 11 of Law 9/91 gives importance to protecting the rights of orphans. In the absence of parents or legal guardians, the Government should ensure the development of institutions, facilities and services for the care of these children.

58. The Unit for the Rights of Children is involved in all cases of neglect or abandonment. Residential care is provided by the Ministry of Education at the Maafushi Education and Training Centre, which accepts boys between the ages of 9 and 16. There are no provisions for girls. Extended families tend to provide alternative care, in the absence of the natural parents.

Adoption (art. 21)

59. There is no "formalized" system of adoption in Maldives, although the system that does operate is organized through the Ministry of Justice and Islamic Affairs.

Illicit transfer and non-return (art. 11)

60. Not being subject to wars, internal conflicts or political instability, the application of this article in Maldives is felt to be unnecessary.

Abuse and neglect (art. 19, including physical and psychological recovery and social integration (art. 39)

61. Section 25 of Law 9/91 prohibits all forms of physical or psychological violence, injury or abuse, neglect or negligent treatment or exploitation, including sexual abuse.

62. The Unit for the Rights of Children deals with all reported cases of abuse or neglect. The Unit is based in Malé, and residents of Malé can be guaranteed the offer of counselling to help to reintegrate victims back into families/communities, if appropriate, or to offer suitable support. In the atolls, however, there are few trained counsellors and the opportunities for receiving formal counselling is therefore limited. Maafushi Education and Training Centre is used to accommodate boys who are neglected, but only with the consent of their parents.

Periodic review of placements

63. Cases of children placed in the Maafushi Centre are reviewed on a regular basis, with the intention of assessing their suitability to return home. Placements are agreed between URC and the island offices, the atoll offices, the Ministry of Education, Maafushi staff and the parents, all of whom have a role in reviewing progress. Annual return home for a month ensures that all boys who have families have the opportunity to renew family relationships, and test their ability to remain in the family environment.

VI. BASIC HEALTH AND WELFARE

Survival and development (art. 6)

64. Antenatal care is available to all pregnant women, primarily through the family health worker and the "foolhumaa" (traditional birth attendant). Although inadequate maternal care, difficulties in transporting the women to hospital, either in Malé or to the regional hospitals, and chronic undernutrition continue to make delivery and motherhood risky, significant improvements have taken place over the past decade.

65. Indicators of child survival and development are the infant mortality rate and the under-5 mortality rate. (See para. 35 above.) Law 9/91 (chap. 1, No. 4) states the need to find the cause of infant mortality and to reduce it through a programme of health education. There has been a sharp reduction in the infant mortality rate and the under-5 mortality rate, first in Malé and then in the atolls, as a result of a number of improvements.

66. Maldives has achieved universal child immunization against the six main vaccine-preventable diseases of childhood, with a coverage of over 90 per cent. Other common morbidities include:

Viral Hepatitis B, which presented a high incidence in the Maldivian population. A vaccine against Hepatitis B was added to the immunization schedule in 1993;

Thalassaemia a fatal congenital condition affecting 1 in 250 children born and resulting in an average life span of four to five years. In order to reduce its incidence, the National Thalassaemia Programme and a Public Awareness Programme are run by the Society for Health Education (SHE), a non-governmental organization, including screening and counselling services in the community and in secondary schools. The National Thalassaemia Centre was opened in 1994 to address the problem.

Diarrhoea continues to be endemic in Maldives, particularly in children under 5, due to lack of awareness of proper hygiene. There has been a reduction in diarrhoeal mortality, through mobile teams promoting Oral Rehydration Treatment too.

Acute respiratory infection is the largest single cause of child mortality and morbidity and is a major health problem. The NPA calls for its reduction by launching a programme for screening, upgrading diagnostic skills and public education.

67. These developments have brought about a significant reduction in the infant mortality rate, which in 1993 stood at 34 per 1,000.

68. There is also a nation-wide programme to educate mothers concerning the proper upbringing of children. Apart from regular radio and television programmes, leaflets and posters are published and distributed freely on this subject. In this programme, special emphasis is laid on the physical, mental and emotional development of the child.

Disabled children (art. 23)

69. Law 9/91 (chap. 1, No. 6) places responsibility on the Government to provide "any possible assistance, depending on resources and facilities to minimize physical disabilities".

70. Law 9/91 (chap. 2, No. 17) places responsibilities on the parents in respect of disabled children:

> "If a child becomes disabled, the special needs of the child should be fulfilled, taking into account the financial resources of the parents. The child should be prepared for employment and recreation, in order to achieve the fullest possible social integration and individual development."

71. Disabled children do not appear to have been a major concern in Maldivian society, perhaps as they were traditionally taken care of by their families.

72. A special programme for primary-aged blind and deaf children is conducted in a regular school in Malé, with a specialist teacher in charge.

Health and health services (art. 24)

73. The Ministry of Health and Welfare is responsible for the provision of health services. They consist of: Indira Gandhi Memorial Hospital (the central referral hospital), Malé; Malé Health Centre; 4 regional hospitals; 22 community health centres at atoll level; and 212 health posts (1993). The Indira Gandhi Memorial Hospital is the best equipped, providing certain specialist medical care for the whole country. There are also a number of private health clinics in Malé, which are proving a popular choice. More complicated conditions are treated abroad.

74. Community health centres, with community health workers provide primary health care. Community health workers visit islands once every two months to

deliver medicines and contraceptives and supervise the work of the family health workers (FHWs). The health post, manned by an FHW, is the basic preventive health care (not curative) available on the islands. On some islands there is only a "foolhuma". Efforts are under way to staff every health post by an FHW and a "foolhuma".

75. Despite recent expansion, the health service faces major constraints:

Difficulties in recruiting and retaining staff at all levels, due to shortage of suitable candidates;

Inadequate and basic training;

Inadequate diagnostic capabilities.

76. Several health projects have been launched with the assistance of UNICEF, and UNFPA is supporting health studies and assisting Society for Health Education (the only NGO involved in an ongoing project).

77. Government expenditure on health has substantially increased in recent years. The NDP 1991-1993 provided for a 6 per cent annual growth in resources allocated to health.

78. Since the country cannot cope with a booming population, there is a nationwide programme to promote and increase the availability of family planning services, through the Department of Public Health, UNFPA and SHE. Small families are encouraged with a view to improving the standard of living. However, despite these efforts, only around 23 per cent of currently married women are contraceptive users. A host of institutional and sociocultural factors affect the implementation of an efficient delivery service with an outreach to island women.

Social security and child care services and facilities (arts. 26 and 18)

79. There are no national laws regarding social security or insurance.

80. There are few child care services or facilities. The demand for them may appear, to some, to be limited, because large, extended families can offer greater opportunities for family members to provide care to young children if both parents are working. However, with traditional extended families now being replaced by smaller, "nuclear" families, the demand for child-care provision will become more obvious.

Standard of living (art. 27)

Nutrition

81. To improve the standard of living of the child, information on nutritious food is disseminated through the media and also by distributing leaflets. Despite such campaigns, undernutrition remains widespread, with around 50 per cent of children suffering ailments related to unbalanced diets. Such chronic undernutrition results in short physical stature, or "stunting"

(estimated around 30 per cent), underweight for age, "wasting" (estimated around 40 per cent), low birth weights and poor child health. There are, however no severe cases in Maldives. The reasons for undernutrition are:

Inappropriate weaning;

Lack of knowledge of nutrition and care practices;

Occasional shortages of a variety of foods on some of the isolated islands;

Lack of diversity and adequacy of food intake;

Diarrhoea;

Worm infestations.

82. Iron deficiency is a problem in Maldives. Some 30 per cent of children are believed to be suffering from anaemia. It is a major public health problem, currently being tackled by raising awareness concerning health and nutrition, and improving antenatal care.

Sanitation/safe water

83. Maldives Water Supply and Sanitation Authority (MWSA) is responsible for overseeing all water supply and sanitation activities throughout the country. In the 1980s the Maldives Government initiated action and made progress in providing safe drinking water and sanitation. Providing universal access to these two basic needs still remains a major challenge. The NPA pledges to:

Maintain universal access to safe water in Malé;

Raise rural access to safe water from 50 per cent (1990) to 80 per cent by 1995 and to universal access by 2000;

Maintain universal access to sanitary latrines in Malé;

Raise rural access to sanitary latrines from 22 per cent (the current level) to 25 per cent by 1995 and 50 per cent by 2000.

Water supply

84. Drinking water is either rainwater or well water, except in Malé where desalinated water is available. MWSA is currently installing pipes throughout Malé, to provide piped, desalinated water to each household. Rainwater is safe but varies in quantity. Well water varies widely in quality. Access to safe water is therefore dependant on a number of variables. The number of people with access to safe water will be low until the number of rainwater tanks is increased. The collection of rainwater is, however, dependant on roof surface area, and in some areas this is not sufficiently high to provide enough water. MWSA has also commenced a programme of installing rainwater tanks on the outlying islands.

85. The hydrogeological characteristics of the small islands pose problems of obtaining safe drinking water for a population that has been rapidly expanding and thereby depleting groundwater faster than it is being replenished. Other constraints are:

(i) MWSA is a centralized organization with limited manpower;

(ii) Construction of storage tanks for harvesting rainwater is problematic because of lack of skills, lack of site location and the high costs of underground storage;

(iii) Desalination of seawater is too costly;

(iv) Importing and storing water is too costly.

Sanitation

86. Traditional systems of "gifili" (digging pits) and defecation on the beach pose health hazards for all islands except for a few large ones with small populations. Provision of safe latrines has been problematic: the flush toilet system does not suit Maldivian conditions as it promotes the discharge of the limited groundwater into the sea. Alternatives have been tried with little success, most having met with a high degree of social unacceptability.

87. Like safe water, sanitation facilities are fully maintained in Malé, where sewerage service is provided to almost all households. However, in more than half of the islands outside of Malé water and sanitation problems have become the main concern. The overwhelming demand is for private modern latrines and public sewerage systems that have no long-term negative effect on the environment, are acceptable to the people and are affordable.

Housing

88. Housing plots are allocated free by the Government, but there is a wide disparity of housing quality between Malé and other islands. On Malé there is very limited space, insufficient for the population; consequently there is a selection procedure for applicants for building plots, leaving others reliant on expensive rented accommodation.

89. Malé "houses" around 61,250 people (one quarter of the country's population), on an island just under 2 sq. kms. in size. This makes it one of the most densely inhabited capitals of the world. Accommodation is very scarce, resulting in high rents and small dwellings, with little or no private outside areas. As families tend to be large and multi-generational, and dwellings small, overcrowding is a common and often acute problem. Many households live in constant lack of privacy and space.

90. Although some other islands do have areas of high population density, overcrowding is relatively rare outside of Malé. Families elsewhere enjoy much larger dwellings, with much more space both inside and outside for children to play.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

91. Section 5 of Law 9/91 lays down government responsibilities to provide facilities for education and personal development in all the islands, depending on the resources available. In this manner, religious teachings should be highlighted. Also, recreational facilities should be provided.

92. Section 15 of Law 9/91 lays down parental responsibilities as ensuring children's right to education, religious education and an upbringing to the best of the parents' financial capabilities.

Education (art. 28)

93. The national education system is currently a mix of traditional institutions (Edhuruge's, Kiyavaage's, Makthab's and Madhurasa's) and modern schools, although the former, traditional system is being slowly assimilated into the modern system. The primary education system is a five-year cycle which children enter at age 6. The sixth and seventh year is the Middle School and is part of the seven-year extended basic education, which defines the minimum educational attainment for all children by the year 2000.

94. Grades 8, 9 and 10 compose lower secondary education, at the end of which students can take, O-Levels. Lower secondary schooling, grades 7 and 8, was previously only available in Malé, but has now been introduced on several other atolls. Upper secondary education, grades 11 and 12, is offered only at the coeducational Science Education Centre in Malé. There is no tertiary education in the country. The Non-Formal Education Department provides educational and vocational training courses, both within Malé and, on a distance learning basis, for children on the outlying islands.

95. Schooling is provided free in the government schools (although there are also private institutions) and, whilst it is not compulsory in law, children are encouraged to attend school until the age of 16, and more than 95 per cent of primary-school-aged children are enrolled in a school. The primary education programme constituted one of the major campaigns between 1980 and 1990. People have thus begun to realize the importance of an education, if not their right to one, and 1 in 3 of the country's 245,000 people currently attends school.

96. Many of the problems relating to education stem from the dispersed and fragmented physical structure of the country. Providing the facilities, teachers and learning materials that high quality schooling requires in all the 200 inhabited islands is not possible. The solution that has been developed is to concentrate educational resources, especially above the primary level, in Malé. Children seeking education at higher levels have to leave their home island to attend school in Malé. This has resulted in inequity in educational quality between Malé and the atolls and pressure on existing facilities necessitating shorter school hours and multiple sessions

on a "shift" system. The highest level of education achieved in Maldives is year 12, and further studies have to be undertaken abroad. The total number of graduates is a little over 300. This lack of skilled personnel hampers development.

Aims of education (art. 29)

97. The aim of education in Maldives is to develop children mentally, physically, emotionally and spiritually in conformity with Islam. The ultimate objective is to produce responsible, understanding, cultured and industrious citizens who will enhance the country's development. The new "modern" system aims at developing a modern curriculum reflecting primarily the realities of the culture of the country and at the same time helping the country enter the modern world.

Leisure, recreation and cultural activities (art. 31)

98. Each academic year is comprised of about 190 days so children have plenty of time for recreation etc. Most schools have playgrounds and other facilities for sports and co-curricular activities are incorporated in the school curriculum. Schools organize and hold several sports events. Other activities like scouting, guiding, cadeting and music are common. Competitions are occasionally organized by NGOs too.

99. There are, on Malé and several other islands, parks and recreational areas specifically for children.

100. Various cultural activities are taught to children.

VIII. SPECIAL PROTECTION MEASURES

Refugee children (art. 22) and children in armed conflict (art. 38/39)

101. Natural disasters of a devastating magnitude, war and famine have never occurred in Maldives and there are, therefore, no refugee children or children involved in armed conflict. There is, consequently, no legislation relating to such matters.

The administration of juvenile justice (art. 40)

102. Rules relating to the administration of juvenile justice are contained in the Penal Code (1960), the Law on the Protection of the Rights of the Child (2.12.91), and circulars issued by the Presidential Office and the Ministry of Justice.

103. Presidential decree No. 67/90 directs government authorities not to charge persons under 15 years of age for offences, stating that "small children" (up to 15 years) will suffer from psychological problems if they are prosecuted, taken to court and punished. The National Security Services (law enforcement agency) would refer to the child (under 16 years) to the Unit for the Rights of the Child (URC) who, following an initial assessment, will

decide whether ongoing counselling is to be offered, in an attempt to "reform" that person. Additionally, parents would be summoned to the offices to sign documents agreeing to look after, and attempt correction of, the child and, if property were damaged or lost, to make compensation.

104. However there are exceptions, related to the commission of very serious crime, which in Maldivian law includes homicide, adultery, drug abuse and major theft. Every child, over the age of 7 years, who commits one of these offences is prosecuted and faces court proceedings and punishment. Presidential decree 67/90 instructs that such cases be closed appropriately by such authorities, by house arrest, so far as it is permitted by law.

105. Robbery, disloyalty and stealing also attract special attention, under Ministry of Justice Circular 4/88 (6.4.88), and children under 16 years of age face prosecution and punishment for these crimes. Punishment is dictated as house arrest for a period of not more than one year.

Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37)

106. The Law for the Protection of the Rights of the Child (9/91) prohibits imposing cruel and degrading punishment on children. Additionally, Ministry of Justice Circular 4/88 (6.4.88) and Presidential Administrative Directive 1-F/21/88/62 prohibit any child under the age of 16 being banished or imprisoned as they may "suffer serious psychological damage which may influence their future". It is required that such offenders be put under house arrest or fined in appropriate cases.

The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37)

107. Ministry of Justice Circular 4/88 (6.4.88) prohibits banishment and imprisonment for children under the age of 16 years.

108. Section 7 of the Penal Code states that save for the offence of murder or religious offences, the judge has the discretion to give lighter sentences.

Physical and psychological recovery and social reintegration (art. 39)

109. The Unit for the Rights of the Child and the Maafushi Training and Educating Centre provide rehabilitative services to juvenile offenders.

Economic exploitation, including child labour (art. 32)

110. Law 9/91 (chap. 3, No. 27) prohibits any child under the age of 16 from working for payment.

111. In Maldives, unlike many other South Asian countries, child labour is not apparent nor widespread. Children are not hired as employees in any sector of the economy in any part of the country.

Drug abuse (art. 33)

112. Drug abuse is considered to be one of the most serious crimes and, under Ministry of Justice, Circular 2/924, (22.2.94), people under the age of 16 are prosecuted and face court proceedings. They cannot be sent to prison, but can be placed under house arrest for a period of not more than five years. Such legislation would seem to be in the interests and for the protection of the child as, if children were exempt from prosecution for drugs offences, the opportunity for adults to exploit children by utilizing them for the trafficking and sale of illicit drugs would increase. The legislation specifies severe punishment for persons who sell or give narcotic drugs to children under the age of 16.

113. There is growing concern about the number of cases of drug abuse, as incidents reported to the URC have increased. Drugs which are abused include those normally only available on prescription, such as tranquilizers, and illicit drugs such as marijuana, amphetamines and heroin.

114. Young people involved in substance abuse, and known cases will be referred to the URC for counselling. However, a Drug Rehabilitation Centre is shortly to open, which will accommodate both adults and children.

Sexual exploitation and sexual abuse (art. 34)

115. Section 25 of Law 9/91 places responsibility on the community to report cases of maltreatment, sexual abuse or anything that affects a child's dignity, for judicial involvement.

116. The existence/incidence of child prostitutes is not known, and is certainly not evident. There have, however, been cases of sexual abuse referred to the URC although this may not reflect the full extent of abuse because there is, as in many countries, unwillingness to accept some forms of sexual abuse/exploitation.

Sale, trafficking and abduction (art. 35)

117. This has not been an issue in Maldives, so legislation for its prevention is not felt to be necessary.

Other forms of exploitation (art. 36)

118. No other form of exploitation is evident or apparent in Maldives, so no additional legislation is necessary.

Children belonging to a minority or indigenous group

119. There are no distinct ethnic or minority groups in Maldives. Although traces of the old nobility still survive, intermarriage among all ranks of society is common. In Maldivian society no particular group is disadvantaged by lineage or place of birth.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1993

Addendum

HUNGARY

[28 June 1996]

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I. Statistical tables

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Introduction

1. The Republic of Hungary is an independent, democratic State based on the rule of law, where the legal framework for the implementation of the principles enshrined in the Convention are guaranteed primarily by the Constitution (chap. 12, art. 8).

2. According to article 15 of the Constitution: "The Republic of Hungary shall protect the institutions of marriage and family." Article 16 states that "The Republic of Hungary shall pay particular attention to the security of existence and education of young persons, and shall protect their interests." Article 67 affirms that "In the Republic of Hungary, every child shall have the right to enjoy protection and care, provided by his or her family, by the State and by the society, necessary for a proper physical, mental and moral development." Article 70/A declares a prohibition of discrimination on any grounds, including the prohibition of discrimination based on age. The draft of the new Constitution - currently under consideration - places particular emphasis on establishing guarantees for the implementation of children's rights.

3. Laws and other legal norms and standards which are based on the Constitution basically ensure the effective implementation of constitutional provisions and provide possibilities for their further development. In 1996, the drafting process of the Bill on the Protection of the Child, and the preparation of a comprehensive and substantial amendment to the Act on Public Education and to the Act on Vocational Training will signify a prominent step in this respect.

4. The Government of the Republic of Hungary is well aware of the fact that the implementation of the provisions enshrined in the Convention is not only bound to legal issues, but first of all rests on moulding and developing economic, social, cultural and other conditions.

5. In the past six years, fundamental changes have taken place in the country. Whereas the political and legal foundations of democracy have been created, radical changes have been initiated aiming at establishing a modern market economy and the country has started to draw closer to the processes of European integration. At the same time, grave difficulties have to be met, due to the parallel emergence of serious economic problems and the unavoidable economic emergency measures. In 1995, the Government of the Republic of Hungary launched an economic stabilization programme which, according to current projections, until the end of 1996 requires significant sacrifices from citizens, from families, from the system of social and educational institutions, since these measures have ushered in a decline in the funding for social policy programmes, a decrease in the possibilities for State-run care. The complexity of this situation is evidenced by the need for society to simultaneously overcome the structural crisis created by the previous system together with the problems related to transition, and to establish sound foundations for the modernization of the country.

6. The Government intends to curb the further growth of the national debt, and to commit domestic resources to supporting the social strata in need. This will be possible as well as necessary only in harmony with the

development of the country. At the same time, much has to be done to ensure a positive discrimination for the child and to forge the necessary solidarity within the society to these ends. This report intends to serve this purpose. As part of the dialogue between the Government and the non-governmental organizations, the non-governmental organizations intend to express their respective views to the Committee on the Rights of the Child about the situation of children, thus creating an even more extensive and differentiated picture of how the rights of the child are implemented in the Republic of Hungary. We hope that the widespread dissemination of the report in Hungary will contribute to raising public awareness on the issues relating to children.

I. GENERAL MEASURES OF IMPLEMENTATION

7. The representative of the Government of the Republic of Hungary signed the Convention on 14 March 1990. Act LXIV of 1991 promulgated the Convention on 22 November 1991 stipulating that the provisions of the Convention shall be effective from 6 November 1991. The Republic of Hungary ratified the Convention without any reservations. The Parliament in a resolution called on the Government to submit the necessary legislative amendments, as required by the provisions of the Convention, and make proposals to abolish those legal standards found contrary to its provisions.

8. The Government as well as non-governmental organizations embarked on a review of legislation incompatible with the provisions of the Convention. A codification and deregulation committee was set up which finished its work on 31 December 1993. The results of this work are being taken into account through the process of legal harmonization, conducted by a board of experts organized by the secretariat of the Coordination Council for Children and Youth Affairs operating under the auspices of the Government. Simultaneously, several civil organizations completed a review of Hungarian legislation, and their assessments also contribute to the continuing process of legal harmonization.

9. Ever since 1987, a Parliamentary Committee has worked on issues related to the age group of children and youth. Since 1994, the Sub-Committee on Youth of the Parliament's Education, Science, Youth and Sports Committee has discharged the administrative functions of preparing legislation in the field of child and youth policy.

10. The Government is determined to make every effort to promote the legal conditions for implementing the constitutional principles relevant to the child and youth age groups, together with the guarantees surrounding the administration of the State's child and youth policy, in order to make government decisions in this field well founded and more coordinated. In discharging its responsibility concerning the living conditions of children and youth, and to ensure that the interests of these age groups are promoted effectively throughout its activity, the Government established a Coordination Council for Children and Youth Affairs in December 1994 with the Prime Minister of the Republic of Hungary as its Chairman. Its members are representatives of the various ministries whose departments are involved in the activities of these age groups, as well as non-governmental experts. The primary task of the Coordination Council for Children and Youth Affairs is to

review, how the situation of the age groups is developing, how the government sources devoted to youth projects are used, the way the laws relevant to the age groups are modernized, and how these are harmonized with international standards. The secretariat is the official body of the Coordination Council for Children and Youth Affairs, and is an organizational unit within the Prime Minister's Office. The Minister of Culture and Public Education is responsible for coordinating the implementation of government policy on youth.

11. According to the programme of the Government adopted in 1994, the paramount and comprehensive tasks stemming from the State's child and youth policy are the following:

(a) To adopt legislation on the protection of the child and, in this context, to modernize the relevant system of institutions under the supervision of the Minister of Public Welfare;

(b) To carry out a reform of the non-material services and the institutionalized support system (family support and family-care services) devoted to assist family care under the supervision of the Minister of Welfare;

(c) To elaborate a long-term programme for primary education available free to all; to develop, both in terms of quantity and quality, secondary training and higher education under the supervision of the Minister of Culture and Public Education;

(d) To establish and regulate a system of representation, counselling, and legal remedies associated with the school rights of children (students) attending public education establishments, supervised and administered by the Minister of Culture and Public Education;

(e) To increase the chances of youngsters, at the start of their careers, to find jobs, to nurture job opportunities for youngsters leaving schools, to organize coherent, active measures to promote labour law protection of young job holders, supervised by the Minister of Labour.

12. Since 1990, local self-governments have the legal obligation to perform mandatory tasks pertaining to the child and youth age groups. Within the scope of local services, these include: providing nursery services, primary education and schooling, health and welfare services; supporting cultural, scientific, artistic and sports activities; ensuring effective observance of the rights of national and ethnic minorities; establishing and safeguarding community conditions for a healthy lifestyle. Besides, since 1995, local self-governments have to carry out tasks related to the analysis of the situation of the child and youth age groups, and must provide general and specific counselling to them for the protection of their interests and provide legal assistance to them, and to coordinate related activities within the local government administration as well as manage the target-oriented use of local government funds allocated to these ends. The Government set aside a target sum of 75 million forints in 1995 and 100 million in 1996 within the central budget to serve as a fund for relevant project applications.

13. The change of the system saw the end of the centrally directed children and youth organizations and movements. At the same time, a number of new organizations have been established and numerous organizations that existed before 1948 revived themselves. All this opened for children and youngsters ample opportunities, compared to earlier times, to be freely engaged in the activities of associations and civil organizations that correspond to their own interests, based on their education, philosophical views or religious beliefs, and to take an active role in responding to questions regarding their own lives and to shape their own destiny. The State budget, through its system of subsidies, offers funding, albeit of a much smaller magnitude than in the years prior to 1990, for the functioning of organizations operating nationwide.

14. In order to promote the interests of the child and youth age groups in governmental policy-making, the Child and Youth Council for Reconciliation of Interests was established in January 1995, with the participation of government officials and representatives of non-governmental organizations covering all age segments of youth.

15. In the Republic of Hungary, the basic tenets of the legal structure are in harmony with the international standards adopted to protect the rights of the child. The Government of the Republic of Hungary is fully aware of the importance of its obligations.

(a) To eliminate any contradictions in the various levels of legal regulations;

(b) To continuously update the legal rules concerning the child, in conformity with international standards;

(c) To reflect in all possible ways, within the domestic legal system, the provisions of international standards when drafting the new Constitution of the Republic of Hungary.

16. Accordingly, a proposal is now being prepared by the Government on whether or not to submit to Parliament by 1998 a bill on the status and implementation of the rights of the child, or rather to carry out a review of the legislation dealing with these rights and to submit a legislative package incorporating all the amendments required.

II. DEFINITION OF THE CHILD: ARTICLE 1

17. In Hungarian law, a child is a person below the age of 18 years, unless the person is married. If a person is above 16 years of age, the guardianship authority may issue a marriage permit, which also means that adulthood has been attained.

18. The child below the age of 14 years has no disposing capacity; the child of the age of 14 has a restricted disposing capacity.

19. In certain cases, the law provides for autonomy in decision-making for a child who has a restricted disposing capacity, and who may conclude contracts of small value and regularly occurring in everyday life, may dispose of

earnings gained through work, may make a court statement with respect to his or her own status and destiny in affiliation cases and adoption cases. The minor above the age of 16 years, for whom schooling is not compulsory, may independently enter into a work contract and may leave the parental home with the permission of the guardianship authority.

20. A child cannot be held accountable under criminal law. A person below the age of 14 at the time the act was committed cannot be tried for criminal offence. Criminal law prescribes separate rules for persons (juveniles) who are above 14 but below the age of 18, providing for more lenient sentencing and different criminal procedures and correction rules containing specific guarantees in order to protect the interests of the minor. Hungarian criminal law does not contain any special rule with regard to an age limit for detention or imprisonment. A person above the age of 14 may thus be sentenced to a prison term. However, according to the general practice, courts in Hungary usually do not sentence to a prison term a person barely over the age of 14. The concept of young (adult) offender is not recognized in Hungarian criminal law, but according to the ruling of the Supreme Court, a person between the ages of 18 and 21 may be regarded as a young offender, and this always is a mitigating circumstance in delivering a verdict. According to the law on criminal procedure, the rules pertaining to the grounds for objections to giving testimony are to be applied also in the case of child and juvenile witnesses, and this includes the right to refuse to testify.

21. The Hungarian legislation on petty offences also excludes the responsibility of persons below the age of 14 years.

22. The law on national defence provides for the general conscription for all males above the age of 17 who are Hungarian citizens and reside in the territory of Hungary. Military service before the age of 18 years is not permissible, even if requested voluntarily.

III. GENERAL PRINCIPLES

A. Non-discrimination: article 2

23. According to the Constitution, the Republic of Hungary guarantees human and civil rights for all persons on her territory without any kind of discrimination, irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Constitution establishes the obligation to apply strict penalties for any kind of discrimination against any human being on these grounds.

24. Those who commit crimes against humanity on the grounds of adverse discrimination (genocide; crimes committed against a national, ethnic, racial, or religious group) are severely punished under criminal law. It is worthwhile to emphasize that the crime of genocide can also be committed through the adoption of measures aimed at preventing births within a group. At present, even if these types of crime have not been committed, perpetrators of crimes arising from adverse discrimination against an individual may be prosecuted for grievous bodily injury caused maliciously or for vandalism. However, the postulate of qualified legal protection requires that the law

severely sanction such discrimination on the basis of the specific facts of the case. Accordingly, in March 1996, the Parliament adopted a new amendment to the Criminal Code qualifying as a criminal offence the organizing of any event, or providing finances for any event which may provoke violence against a national, ethnic, racial, religious or other group, hatred or incitement against the Hungarian nation, or any national, ethnic, racial or religious group.

25. The Act on the rights of national and ethnic minorities sets out special guarantees for persons, and therefore for children belonging to these groups.

B. Best interests of the child: article 3

26. The Hungarian Constitution, the Criminal Code and the Civil Code all stress the preponderance of the interests of the child over everything else. Family law contains general provisions that the parent, the executor of the law (guardianship authority, the courts of law) shall proceed always respecting the interests and the rights of the child.

27. Hungarian legislation and jurisprudence view differently the concept of the primacy of the interests of the child. According to certain concepts, this is applicable only to the laws and procedures relating to the child, while others represent a different opinion which would make the primacy of the interests of the child effective in every act of State and society, even if these seem to affect the child only indirectly.

C. The right to life, survival and development: article 6

28. In harmony with the Constitution and international standards, the Hungarian Criminal Code punishes strictly the termination of human life. The killing of a baby committed immediately after birth is classified as murder. According to the ruling of the Supreme Court, in every case when a juvenile is the victim of a crime this fact shall be regarded as an aggravating circumstance when a verdict is considered.

29. In 1990, the Constitutional Court abolished capital punishment, but even earlier it could only be applied against a person who was above the age of 20 years when the act was committed. Under Hungarian law, life imprisonment cannot be applied in the case of a juvenile.

30. There are numerous legal provisions in criminal law that provide special protection for the child. The person responsible for the education, supervision or care of the minor, who seriously violates his or her duties arising from this responsibility and thus jeopardizes the physical, mental or moral development of the minor, commits a crime. Even while not committing a serious crime, the person who induces or attempts to induce a minor to commit a crime or to lead a disreputable life shall be liable for punishment. Failure, due to one's own fault, to meet child-care obligations that are based on law and stipulated in an executable court order constitutes a crime. The legal provisions sanctioning sexual crimes, such as rape, sexual exposure and soliciting, consider it an aggravating circumstance if the victim is educated by, supervised by, cared for or medically treated by the offender. Assistance in committing prostitution shall constitute an aggravated crime if a person

below the age of 18 commits the act of prostitution. In order to protect juveniles against the abuse of narcotic drugs, the law provides for special sanctions in case the abuse of narcotic drugs is committed using a juvenile or a minor or if, in the course of perpetration, such a person gains access to narcotic drugs. For further information, see the statistical tables in annex I.

D. Respect for the views of the child: article 12

31. Hungarian law affirms the principle that juveniles shall be heard in any judicial or administrative proceeding affecting them. The Constitution guarantees equality before the law, the right of everyone to have the charges against him or her, or one's rights and obligations in a legal proceeding examined by an impartial tribunal established by law in a fair and public hearing.

32. According to family law, the parents shall ensure that the child, who is in possession of his or her faculty of judgement, shall have the opportunity to express his or her own views at the preparatory stage of making a decision affecting him or her. The views of the child shall be given due weight considering his or her age and maturity. A 1995 amendment established a new rule whereby the court and the guardianship authority shall hear the child in justified cases, either directly or indirectly through an expert, concerning parental supervision or the placement of the child, including when the child so requests. When the child reaches the age of 14 years, any ruling on his or her placement must have the child's consent, except when the placement chosen by the child can jeopardize the child's own development. It is desirable to establish general procedural rules with respect to requesting and considering the views of the child.

33. A new rule in civil law procedure stipulates that the court, in justified cases, may assign a guardian for the child to be of assistance at a court hearing, and may also rule to hear the child in the absence of the parents.

34. In criminal proceedings, the obligation to read the rights of the accused concerning making a coherent confession and on the right to refuse to make a confession before questioning is also effective for the juvenile suspect.

35. The proposed amendment to the law on public education intends to provide the student with comprehensive entitlements to express his or her views - and to have these views taken into account - in connection with his or her school life.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality, preservation of identity: articles 7 and 8

36. According to Hungarian family law, the child bears the family name of the father or of the mother, according to the agreement between the parents. The parents also choose the first name of the child. Should there be no person regarded as the father of the child, the child shall bear the family

name of the mother, until a fictive father is registered. The law entitles the child to bear his or her former family name if in an affiliation case the assumption of fatherhood is annulled. Maintaining the former family name is also possible in case of adoption. If the child has reached the age of 14 years, the child's consent is necessary to make an affiliation statement of fatherhood, and similarly, consent of the child is required for adoption.

37. Hungarian law contains detailed regulations with regard to the right to citizenship. Citizenship is based on the principle of ius sanguinis. Consequently, the child becomes a Hungarian citizen even if only one of the two parents is a Hungarian citizen. As a supplementary principle, the law applies the territorial principle in two cases: if the child's parents are unknown or if the parents are stateless.

B. Freedom of expression: article 13

38. The right of the child to freedom of expression and to receive appropriate information arises from the provisions of the Constitution. However, general and specific legislation is still to be enacted to ensure for the child the enjoyment of this freedom and right in all situations that may emerge during childhood.

C. Freedom of thought, conscience and religion: article 14

39. The Constitution guarantees for all persons, regardless of age, the freedom of thought, conscience and religion. The law on the freedom of conscience and religion and the law on the church maintains that the parent is exclusively entitled to decide on the religion of the child.

40. The Hungarian Criminal Code sanctions the violation of the freedom of conscience and religion, together with numerous facts of case in this context (coercion, violation of the security of person, kidnapping, violation of privacy of one's home and of personal data, violation of the secrecy of correspondence, slander and defamation).

D. Freedom of association and of peaceful assembly: article 15

41. The Constitution and the laws on association and assembly do not exclude the child from the enjoyment of the right to freedom of association and peaceful assembly. Nevertheless, Hungarian civil law does not recognize the legal statement of a person having no or restricted disposing capacity aimed at exercising these rights, namely to establish, register and operate a civil organization, and within this framework to undertake obligations and representation on behalf of the organization, or to the activity regarding the authorization to represent, or to decide on, to register or to organize an event (assembly), or to give a mandate for presentation of reporting concerning thereof. Specific rules are still required to be enacted to guarantee that the child shall be able to exercise these rights.

E. Protection of privacy: article 16

42. The Constitution guarantees to everyone, regardless of age, the right to the privacy of the home and the right to the protection of personal data.

The basic content of and the fundamental guarantees for the enjoyment of the latter right are regulated in a specific law. However, with regard to children separate regulations are still to be enacted to make the provisions in this law genuinely effective.

43. In case of crimes punishable pursuant to a private complaint, such initiative may be undertaken by the legal representative of a child below the age of 14; a child above the age of 14 years may independently submit a private complaint. In both instances, the guardianship authority is also entitled to initiate a private complaint.

44. Specific regulation is required for the protection of the right of the child to privacy in school, in a hostel, and in child and youth protection institutions. In this respect, bills need to be drafted to establish the rules required.

F. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment: article 37 (a)

45. According to the Constitution, no one may be subjected to torture or cruel, inhuman or degrading treatment or punishment, and it is forbidden to conduct medical or scientific experiments on a human being without his or her prior consent.

46. The rules governing correction stipulate that the human dignity of the person sentenced to deprivation of liberty shall be respected.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Parental guidance: article 5

47. According to Hungarian family law, the parent is responsible for the care and guidance, and of promoting the physical, mental and moral development of his or her child.

48. According to the provisions of Hungarian family law, the parents have to exercise parental guidance taking into account the interests of their young child. The parents shall decide on the placement of the child. If agreement between the parents is lacking, the court shall place the child with the parent, who seems to be able to provide better physical, mental and moral development. A request to change the placement of the child may be submitted if the conditions upon which the court based its ruling have subsequently changed substantially and as a consequence, the change of placement is in the interest of the child. An arbitrary alteration in the family status of a child constitutes a crime.

B. Parental responsibilities: article 18, paragraphs 1-2

49. According to Hungarian family law, both parents shall jointly exercise parental guidance even if they live separately. The parents who live separately will decide together on substantive issues concerning the life of

the child. In proceedings for divorce or for placement of the child the court may, upon the request of the parents, decide on common parental supervision.

C. Separation from parents: article 9

50. According to Hungarian family law, should placement of the child with the parents jeopardize the interests of the child, the court may place the child with another person, provided there is a request to this effect coming from this person. In the course of the judicial proceedings everyone concerned shall be heard. The court may terminate parental supervision and place the minor with another person or in an institution if the parents' behaviour is detrimental to, or gravely jeopardizes the interests, especially the physical well-being and mental or moral development of the child. The child has the right to maintain personal relations and to direct contacts with the parent from whom he or she is separated. In exceptionally justified cases, in the interest of the child the court may entitle the parent whose parental supervision rights had been terminated by a court decision to maintain direct contact with the child. For further information, see annex I.

D. Recovery of maintenance for the child: article 27, paragraph 4

51. A parent living apart from the child is obliged to provide maintenance for the child, primarily in cash. If the parents are unable to reach an agreement, the court shall take a decision on the amount of the maintenance for the child.

52. The Republic of Hungary has acceded to the New York Convention on the Recovery Abroad of Maintenance, and to the Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations to Children. The Ministry of Justice and the Ministry of Welfare are responsible for the administration of these tasks. A substantial part of the several hundred cases for recovering maintenance for the child from abroad end successfully. The bilateral agreements on mutual legal assistance concluded by Hungary also include family law matters; the recognition and recovery of claims is also pursued through this process.

53. The negligence of child maintenance responsibility due to one's fault is a crime under Hungarian law, but the law allows the possibility of waiving punishment in case of compliance prior to the handing down of the sentence of first instance.

54. If the obligator fails to fulfil his or her obligations as set out in an enforceable judicial decision, the rules for seizure by the court provide the possibility for the direct deduction from the personal income of the maintenance. Family law stipulates that should the recovery of maintenance for the child be temporarily impossible, the court may credit an advance.

E. Children deprived of family environment: article 20

55. According to Hungarian family law the minor is under either parental supervision or guardianship. If for whatever reason the physical, mental and moral development of the minor is not appropriately ensured, the guardianship authority may authorize the placing of the minor in an institution, and if the

court has terminated parental supervision, the minor shall be placed in the care of the State. In this case, the minor may be placed in an institution or with foster parents. The person with whom the court has placed the child shall be considered as the guardian of the minor. Legal regulation is still to be enacted in order that a review of placement is carried out regularly. For further information, see annex I.

F. Adoption: article 21

56. According to Hungarian family law, the purpose of adoption is to ensure family care primarily for minors whose parents are not alive, or whose parents are incapable of providing appropriate care. Adoption is authorized by the guardianship authority. Adoption shall be authorized only if the child over the age of 14 has given his or her consent to it. Adoption shall not be authorized if it is motivated by financial gain for either of the parties concerned, or for the individuals or organizations participating in the procedure. The adoption of a child from abroad, with the exception of adoption by relatives or by the spouse of the parent, shall be authorized only in exceptional cases, primarily when, owing to a lack of initiative, the adoption of a child being brought up in an institution did not take place in Hungary, or when the measures taken with a view to adoption have not been successful.

G. Illicit transfer and non-return: article 11

57. The Republic of Hungary complies with the provisions of the Hague Convention on the Civil Aspects of International Child Abduction; a specific law regulates certain issues of implementation. The Ministry of Justice is responsible for the administration of these tasks.

58. The prosecution of the crimes of violating the right of security of person, of kidnapping, of dissolving the family status, and of the offence of changing the placement of the minor serve the prevention of the illicit transfer of children abroad.

H. Abuse and neglect, including physical and psychological recovery and social reintegration: articles 19 and 39

59. According to the Hungarian Criminal Code, every member of society, regardless of age, is protected against acts of violence. The prosecution of crimes against the individual, crimes of trafficking, crimes related to sexual abuse and crimes against property provide comprehensive legal protection against such acts.

I. Periodic review of placement: article 25

60. The laws do not contain specific provisions regarding the tasks in the field of child and youth protection and care, or regarding the structure and operation of the system of child and youth care institutions. The relevant bill on the protection of the child is now being drafted and is expected to be submitted to Parliament in 1996. For further information, see annex I.

VI. BASIC HEALTH AND WELFARE

A. Disabled children: article 23

61. The Republic of Hungary guarantees free health care to the disabled child. There is, however, a need to work out a system of bringing up and caring for disabled children in the family. For further information, see annex I.

B. Health and health services: article 24

62. For statistical information on this subject, see annex I.

C. Social security and child-care services and facilities: articles 26 and 18, paragraph 3

63. For statistical information on this subject, see annex I.

D. Standard of living: article 27, paragraphs 1-3

64. In the Republic of Hungary, a child shall receive health insurance coverage even if neither the child nor his or her relatives have any entitlement to it. The Republic of Hungary provides for the child, as a civil right and free of charge, the immunization needed at different ages and the screening examinations as part of medical care.

65. The standard of living of children in Hungary is closely related to the critical economic performance of the country. In the aftermath of the economic stabilization measures adopted by the Government, the nominal and the real value of subsidies devoted to the child are declining (family allowance, other family grants, financing of health services). The Government has, however, adopted measures to prevent a significant decline in the standards of basic baby and young child care (paediatric nurses, nurseries, kindergartens). For further information, see annex I.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance: article 28

66. Public education in Hungary is compulsory and free of charge for all up to the age of 16. However, the economic difficulties faced by the country directly increase for the families concerned the costs for schooling (textbooks, stationery, etc.). The increase of the burden is more apparent for parents with children enrolled in secondary education. For further information, see annex I.

B. Aims of education : article 29

67. On the basis of the relevant legislation adopted in 1993, the Government of the Republic of Hungary issued a decree in 1995, containing the so-called National Core Curriculum. The information and capabilities promoting the objectives of the Convention are incorporated into several conceptual areas of culture and education, as defined by the National Core Curriculum. Further, a

two-year curriculum is still to be worked out to comply with the relevant provisions of the Convention, particularly of those in article 29, paragraph 1, of the Convention.

C. Leisure, recreation and cultural activities: article 31

68. As a consequence of the negative impact of the changes in the economic situation of the country, the amount of State and local government resources available for leisure time, recreation and cultural activity has significantly decreased. The State subsidies for this purpose have been reduced which resulted in a decrease in the number of institutions providing such services for children. It is anticipated that only from 1997 shall the Government be able to adopt adequate measures to halt and reverse this tendency. For further information, see annex I.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children: article 22

69. The Republic of Hungary is a State party both to the Convention relating to the Status of Refugees and to the Protocol relating to the Status of Refugees. The rules in this context are a part of domestic law. For further information, see annex I.

2. Children in armed conflicts, including physical and psychological recovery and social reintegration: articles 38 and 39

70. See comments to article 1 of the Convention.

B. Children in conflict with the law

1. The administration of juvenile justice: article 40

71. There is no separate criminal justice system for juveniles, but there are some specific provisions for juveniles in the areas of penal law and criminal procedural law and rules on the enforcement of punishments. These rules incorporate the desire to consider the peculiarities arising from age, but do not provide a framework for the operation of a special administration of justice justified by the characteristics of juvenile delinquency, the social problems and possibilities of those who infringe the law. This is particularly significant in the context of the fact that a coherent system for the prevention of juvenile delinquency has not yet been established in Hungary.

72. Specific rules of procedure for juvenile delinquents are:

(a) During criminal procedures, if necessary, measures to protect and guard the juvenile should be initiated;

(b) The public shall be excluded from the trial if necessary in the interest of the juvenile;

(c) The participation of the prosecutor (juveniles' prosecutor) - appointed by the superior prosecutor - at the trial is obligatory;

(d) A designated division of the court or a designated judge shall hear the case brought against the juvenile;

(e) At the court of first instance one of the lay judges of the juveniles' division shall be a teacher;

(f) In cases of juveniles falling under the jurisdiction of the district court, it is the district court at the seat of the county court which shall hear the case;

(g) In procedures against the juvenile the participation of a defence attorney shall be obligatory;

(h) The person who takes care of the minor shall be heard and an environmental report and school or workplace evaluation shall be obtained in order to determine the characteristics of the personality, the mental development and the emotional relations of the minor.

73. Since 1995, an amendment to the rules of criminal procedure introduced the possibility to postpone the indictment. If the conditions of indictment exist and the minor has committed a crime punishable with not more than five years of deprivation of liberty, the prosecutor may postpone the indictment for a period of one to two years. At the same time, there is no infringement of the right of the juvenile to have an independent and impartial court decide on the case brought against him or her. As a matter of fact, the law ensures the juvenile the right to have a hearing if the minor does not agree with a postponement of the indictment. The prosecutor shall declare that during the period of postponement the minor shall be under supervision. When the period determined for postponement has elapsed, the prosecutor shall abandon the investigation. The amendment also stipulates that the investigating authority, simultaneously with informing the juvenile about the charge based on a well-founded suspicion shall appoint a defence attorney if the juvenile delinquent has no authorized defence. For further information, see annex I.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings: article 37 (b), (c) and (d)

74. Hungarian criminal procedural law stipulates that in pre-trial detention the juvenile shall be segregated from adults.

75. The rules of criminal procedure coming into force in 1995 created more exact and severe conditions for pre-trial detention. Pre-trial detention may be ordered only where there exists a well-founded suspicion that a serious crime has been committed. The new rules permit pre-trial detention to be served in a juvenile house of correction. Furthermore, during the period of pre-trial detention the place of detention may be changed by the court on

submission by the prosecutor, the defendant, or the defence attorney. According to another new provision, before the indictment, during the procedures regarding coercive measures to be imposed (pre-trial detention, temporary medical treatment), no hearing shall be held in the absence of the defence attorney and the legal representative and the person taking care of the juvenile shall be informed of the hearing, and shall have the right to give a statement.

3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment: article 37 (a)

76. There is no capital punishment in the Republic of Hungary. Life imprisonment may not be imposed on a minor.

77. Fifteen years of imprisonment is the longest term that may be imposed on a minor who was 16 when the crime was committed if the maximum sentence for the crime is life imprisonment; 10 years of imprisonment is the maximum for a crime punishable with a sentence of more than 10 years. A cumulative and aggregate punishment may not be more than a 20- or a 15-year term in prison.

78. The longest term of imprisonment that may be imposed on a minor who was not yet 16 when the crime was committed is five years, where the crime is punishable with a longer term. A cumulative and aggregate punishment may not be more than seven and a half years in prison. A number of provisions in the Hungarian Criminal Code were amended in 1993 to ensure that the punishment of deprivation of liberty is inflicted on a minor only in the most necessary instances, and only for the shortest possible term.

79. The possibilities of applying supplementary sentences independently of the principal punishment have increased. In the case of ex-convicts, a suspension of the sentence has become possible. The shortest term of deprivation of liberty was reduced from three months to one day for any crime and any convict.

80. The 1995 amendment to the Criminal Code states that measures or punishments implying deprivation of liberty shall be applied only if the objective of the measure or the sentence cannot be realized in any other manner. The same amendment changed the measure termed "care in a correctional house for an unspecified period of time" to "care in a correctional house for a period from one to three years". With respect to the nature of care in a correctional house that severely restricts freedom, one day in detention is counted as being equal to one day of care in a correctional house. The same law also changed the period of probation from one year to a period from one year to two years, allowing it to be determined in months.

C. Children in situations of exploitation, including physical and psychological recovery, and social reintegration: article 39

81. If a minor is punished with deprivation of liberty, the sentence shall be executed in a penal institute for juvenile offenders and in this institute adult prisoners shall be present only to ensure the operation of the institute.

82. In Hungary, there are two institutions for juvenile offenders which are operated by qualified teachers and one institution is equipped with a psychological laboratory to provide assistance in the rehabilitation of the mental health of the minor.

83. The law sets out provisions to ensure that the juvenile prisoner shall participate in vocational training or in learning skills, and steps shall be taken to ensure that the minor participates in secondary education. During the correctional process, assistance shall be sought from the guardianship authority and other administrative bodies, civil organizations, professional and non-professional patrons and the relatives of the minor in the education and social reintegration of the minor.

84. With a view to promoting the reintegration of the minor the rules have been changed for the enforcement of punishments and for supervision by patrons. The minor who has been sentenced to suspended imprisonment, who has been put on parole or who is on probation, temporarily released from a correction house or against whom the indictment has been postponed is under supervision by patrons. This task is discharged by professional and non-professional patrons, with local governments, employers, schools, charity and non-professional organizations assisting in this together with the police. The objective of supervision by patrons is to foster self-respect and develop the sense of responsibility of the convicted person, assisting the preparations for an independent life after having regained liberty that shall meet the expectations of society.

85. If the prisoner has spent three months in a jail or six months in a prison, then

(a) The prisoner may leave the correctional institution not more than four times a month for more than 24, and exceptionally 48 hours;

(b) Money for personal use may be provided in cash which may be spent outside the correctional institution;

(c) The prisoner may receive visitors outside the correctional institution;

(d) When working outside the correctional institution guarding may be waived.

86. Those sentenced to longer terms in prison may be placed in groups in order to assist their reintegration, where less severe rules may be applied. The convicted person may be released for not more than 24 hours, or for a longer time as a reward, for 5 days a year in penitentiary, 10 days a year in prison, and 15 days a year in jail. The convicted person may also work outside the penal institution.

87. Leave for not more than 24 hours may be permitted as a reward if the convicted person has served at least half of the sentence in penitentiary, at least six months in prison, and at least three months in jail.

88. Detailed rules have been adopted regarding the rights of the convicted person to maintain contacts with the outside world (correspondence, receiving visitors, a submission or claim of public interest to be lodged outside the institution, contacts with employers and representatives of charities and the patron to assist in finding a workplace after release, ordering press publications, contacting diplomatic or consular missions, receiving and sending packages, sending uncensored letters to authorities and international organizations, using a phone).

89. The law states that assistance shall be sought from civil, charity and non-professional organizations to assist the education of the minor in correctional institutions, his or her social reintegration, and to promote post-release care.

1. Economic exploitation, including child labour: article 32

90. Several provisions of the Hungarian Criminal Code prohibit the economic exploitation of the child. Since 1995, besides the crime of endangering a minor, the law imposes a more severe punishment on an adult who induces or attempts to induce a minor to commit a crime or to lead a corrupt life, or who employs a minor at forced labour. In the case of forced labour, the crime of bodily injury, if an injury occurs, or of endangering in pursuance of profession, or of coercion, shall be established.

91. It is prohibited to establish labour relations with a person incapable according to Hungarian Civil Code and labour law. The minor having no or restricted disposing capacity may establish labour relations without the consent of his or her legal representative over the age of 16. The minor shall dispose of his or her own earnings.

92. Hungarian labour law prohibits the employment of a minor in work that may have harmful consequences to his or her physique or development.

93. The violation of the rules regarding the employment of minors is considered as a petty offence; the fines imposed for it at present are not proportionate to the size of income generated from illegal employment or to the danger posed to the individual and to society. At the same time, the rights of the worker, including those of the minor, are protected indirectly by a number of criminal law sanctions against income tax and social insurance fraud, and against those who violate the obligation to pay social insurance and health and pension contributions.

2. Drug abuse: article 33

94. Hungarian criminal law, particularly since the amendment of 1993, severely punishes any abuse of narcotic drugs. Criminal law provides for the prosecution of all those who abuse narcotic drugs using children or who supply children with narcotic drugs.

95. Criminal law punishes those who use narcotic drugs, regardless of age.

96. The law provides specific punishment for those adults who assist or induce a minor to abuse narcotic drugs pathologically.

3. Sexual exploitation and sexual abuse: article 34

97. Hungarian law severely penalizes the seduction of a minor.

98. Incest is penalized by the law.

99. Any form of rape is severely penalized by the law.

100. Seduction, rape and sexual assault are punishable only on private complaint submitted by the victim. If the victim is under the age of 14, the private complaint may be submitted by the legal representative, but if the victim is over the age of 14 he or she may independently submit a complaint. In these cases, the guardianship authority is also authorized to submit a complaint.

101. According to Hungarian criminal law prostitution is not a crime, and is considered as a misdemeanour. But facilitating prostitution, living on a prostitute's earnings, procuring, and maintaining a brothel are penalized severely. The law penalizes more severely those who commit sexual crimes for profit, if in the brothel maintained by the person facilitating prostitution a minor is engaging in prostitution, or if the offender in committing the crime of soliciting injures a person who is a relative or is under his or her tutelage care or supervision.

4. Other forms of exploitation: article 36

102. Apart from the crime of economic and sexual exploitation, the sanctioning of the crime of coercion, of endangering a minor, and of blackmail protects the child against other forms of exploitation.

5. Sale, trafficking and abduction: article 35

103. Since 1995, Hungarian criminal law has penalized the crime of kidnapping, besides the crimes of violation of personal freedom and of smuggling people. Legislation has complemented the evidence of the crime of altering the family status in order to fight trafficking in children more effectively.

D. Children belonging to a minority or an indigenous group: article 30

104. Pursuant to the relevant law, the rights of children belonging to national or ethnic minorities in Hungary are given effect through positive discrimination. The establishment and the functioning of this system of institutions is under way. Besides ensuring the rights of national and ethnic minorities by law, Hungarian society must confront the expansion of social prejudice which substantially hinders the effectiveness of these rights. Legal rules alone shall not be able to prevent the proliferation of anti-Gypsy sentiments, racism and xenophobia; the Government is therefore contemplating the adoption of active means to ease social prejudice and to fight intolerance.

IX. CONCLUSION

105. The Republic of Hungary assumed an obligation by article 2 of the Convention to make the Convention and the principles of it widely known a disseminate it to the largest possible extent. In this respect, no measu have been adopted by the Government. Non-governmental organizations have significant efforts to make the Convention widely known in Hungary, and h issued several publications containing the text of the Convention and have published independent studies thereon.

106. In the course of drafting the next report, the Government of the Republic of Hungary will attach great importance to disseminating in all possible forms the provisions of the Convention as well as the report amo citizens, legislators and the judiciary.